

P.M. _____
TIME A.M. _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
IBINGA BERTIN,

Petitioner,

03 CV 0434 (SJ)

- against -

ORDER

UNITED STATES OF AMERICA,

Respondent.
-----X

A P P E A R A N C E S

IBINGA BERTIN
10450 S.W. 162 Terr
Miami, FL 33157
Petitioner, *Pro Se*

ROSLYNN R. MAUSKOPF, ESQ.
United States Attorney
Eastern District of New York
One Pierrepont Plaza
Brooklyn, New York 11201
Attorney for Respondent

JOHNSON, Senior District Judge:

Petitioner Bertin Ibinga filed a motion, pursuant to 28 U.S.C. § 1355, for return of certain property that he alleges to be in the custody of the government.

The government has filed a motion to dismiss, arguing that Plaintiff did not file an administrative claim within two years of the date that the action accrued as required by 28 U.S.C. § 2401(b), and that this Court therefore lacks subject matter jurisdiction over the claim.

The Court finds that Plaintiff's cause of action accrued when Plaintiff's

property was seized on July 30, 1992, and that Plaintiff has not demonstrated that he filed an administrative claim any earlier than August 12, 1999.¹ As Plaintiff did not properly exhaust his administrative remedies as required by 28 U.S.C. § 2401(b), the Court finds that his claim must be dismissed.

The Clerk of Court is directed to enter a final judgment of dismissal and to close the case.

SO ORDERED.

DATED: July 15, 2005
Brooklyn, New York

s/SJ
Senior U.S.D.J.

1. Plaintiff appears to have sent letters requesting the return of his property at earlier dates. However, the Court finds that these letters do not constitute properly filed administrative claims.